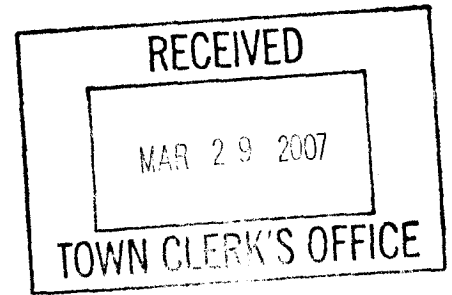


TOWN OF NEW WINDSOR

ZONING BOARD OF APPEALS Regular Session

Date: MARCH 26, 2007

AGENDA



7:30 p.m. – Roll Call

Motion to accept minutes of March 12, 2007 meeting(s) as written.

PRELIMINARY MEETINGS:

1. **RICK TEDALDI (07-09)** Request to permit more than two (2) horses on property at 15 Wylly's Court in an R-1 Zone **(57-1-2.5)**

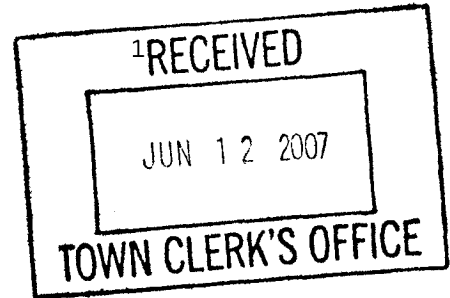
PUBLIC HEARINGS:

2. **NEWBURGH LODGE OF ELKS #247 (KIRK WILLIAMS) (For Tavares) (07-08)**
Request for use variance for Fraternal Club/Organization not permitted in R-5 Zone at 286 Temple Hill Road **(35-1-65)**
3. **KATHLEEN MC DONALD (07-04)** Request for:
62,500 s.f. Minimum Lot Area (C-6)
8 ft. Side Yard Setback (F-6)
70 ft. Frontage (H-6)

for proposed creation of second lot at 336 Riley Road in an R-3 Zone **(36-1-10)**

(NEXT MEETING APRIL 9, 2007)

March 26, 2007



TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS

MARCH 26, 2007

MEMBERS PRESENT: MICHAEL KANE, CHAIRMAN
KIMBERLY GANN
KATHLEEN LOCEY
ERIC LUNDSTROM
PAT TORPEY

ALSO PRESENT: ANDREW KRIEGER, ESQ.
ZONING BOARD ATTORNEY

MYRA MASON
ZONING BOARD SECRETARY

JENNIFER GALLAGHER
BUILDING DEPARTMENT

ABSENT: MICHAEL BABCOCK
BUILDING INSPECTOR

REGULAR_MEETING

MR. KANE: I'd like to call to order the March 26, 2007
meeting of the New Windsor Zoning Board of Appeals.

APPROVAL_OF_MINUTES_DATED_MARCH_12,_2007

MR. KANE: Motion to accept the minutes of March 12,
2007 as written.

MS. GANN: So moved.

MR. LUNDSTROM: Second it.

ROLL CALL

MS. GANN	AYE
MR. LUNDSTROM	AYE
MS. LOCEY	AYE
MR. TORPEY	AYE
MR. KANE	AYE

MR. KANE: Before we get started just one statement, I'm not too good at this but I just wanted to mention that Mr. Paul Cuomo who has dealt with this Town as the Town engineer and as an attorney and involved with political parties passed away last week, not an attorney, God bless him, he passed away and just wanted to note that and convey our sincere condolences to his family and just mention that at this point cause he's been in front of this board for a lot. I just thought I should say something, again, I'm not very good at it but I appreciate you hearing me out.

MR. LUNDSTROM: Mike, one other thing also since the last time we met Sue Weyant's husband, one of the Town Board members, her husband passed away.

MR. KANE: That's true, too, yes so our condolences to both families.

As an explanation, the Town of New Windsor holds two hearings, we hold a preliminary hearing and we hold a public hearing. Preliminary meeting gives us a general idea of what you want to do and if we have any extra questions or need of any extra materials from you, pictures and such, we give you the opportunity to do that. A lot of towns you walk in cold when you come in it's a public hearing, you don't have what you need you lose. So that's why we have two hearings here in New Windsor. So we'll start with tonight's first

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preliminary meeting.

PRELIMINARY_MEETINGS

RICK_TEDALDI_(07-09)

MR. KANE: Request to permit more than two horses on property at 15 Wylly's Court.

MR. KANE: Just state your name, speak clearly enough for this young lady over here to hear you.

MR. TEDALDI: Rick Tedaldi. Okay, I own about 19.4 acres on Wylly's Court in New Windsor. Upon speaking with Lou in the Building Department, he said that you need 20 acres in order to be unlimited as far as to how many horses you have. I'm stuck at about 19.4, that's about 3 percent give or take less than what I need, there's only one house that can even see where I live, the other three sides of me, nearest house and farm is probably close to a mile away and it's just previously all agricultural land when I bought it, it was still agricultural. I paid the rollbacks and made it residential cause at the time I had no intent of doing anything agricultural. That's it.

MR. KANE: If the two horses are approved are you going to be doing any kind of renovations on your property, how are they going to be stored?

MR. TEDALDI: It's to be able to have more than two. Presently the zoning allows two plus a foal so I'm looking for the ability to have however many and main reason I'm doing this is cause I have the property for sale and it's, you can see the type of house and type of property it lends itself more as to an estate kind of property and I've had some people looking at it but there has been an issue as far as the amount of horses you can have, most people want to be able to have more than two.

MR. KANE: Are there any horses currently on the

property?

MR. TEDALDI: No.

MR. KANE: So you won't be building anything, any stables or anything like that on the property?

MR. TEDALDI: I'm not.

MR. KANE: You're just looking for a variance to add it?

MR. TEDALDI: For the ability to be able to have them.

MR. LUNDSTROM: If I may, if you had 20 acres, what would be the maximum of horses that you would be allowed on 20 acres?

MR. TEDALDI: Well, according to the building department it was, if you have less than 20 acres you're limited to two horses plus a foal as soon as you achieve 20 acres have that or more, it's actually unlimited, it's governed by common sense at the moment.

MR. LUNDSTROM: Common sense being you're saying 1,000 horses, 2,000 horses?

MR. TEDALDI: Common sense being you're not going to be putting 1,000.

MS. GANN: How many horses would be say would be common sense on 20 acres?

MR. TEDALDI: Most towns have a 2 plus one or three plus one rule where you have to have the two acres for the first horse then every acre of that you can have a horse.

MR. KANE: New York State says one acre per horse.

MR. TEDALDI: Sometimes pick a starting amount so based on that it would be roughly 15 horses maximum, that's kind of the number that was in my head.

MS. GANN: So to house these horses the next owner would probably build a stable to house the horses?

MR. TEDALDI: I'm sure, yes, it's very adequate amount of property, it's very sheltered, no one's going to see anything.

MS. GANN: Do you have someone in mind to your purchase your property?

MR. TEDALDI: I've had, yeah.

MS. GANN: How many horses do they have?

MR. TEDALDI: A dozen.

MR. LUNDSTROM: Do you know if that sale is predicated on them having that variance granted so they can bring all the 12 horses onto the property?

MR. TEDALDI: For this particular person, yes, this sale would not be able to occur. I'm not counting on this, I'm not in a rush to sell so it's not that important, I would just like to have the option.

MR. KANE: You feel it adds to the value of your home?

MR. TEDALDI: Yeah, it certainly does and as you can see in the pictures in the area it's remote, I'm not in a tight development, it's very quiet.

MR. KANE: One mile to the nearest neighbor.

MR. TEDALDI: No, I have one neighbor that could actually see my house. Outside of him in every other direction, it's woods and woods and woods.

MR. LUNDSTROM: One further question, if I may, I see on the plat that you provided us that part of your land is in an federal wetlands, how many acres or part of acres would that be?

MR. TEDALDI: Probably I'm going to say roughly seven acres of wetlands on the property.

MR. LUNDSTROM: Cause one of the questions that I would ask at the public hearing is that now seven acres of federal wetlands gets subtracted from your current amount of acres, so instead of 19 would be 19 minus that 7 and that may weigh very heavily in our decision.

MR. TORPEY: That's just building, you can't build on it.

MR. KRIEGER: Yeah, you can't touch it, that means that you can't fill it in with grass, for instance.

MR. TORPEY: You can have an animal roam.

MR. KRIEGER: Yes, depending on conditions of the property, it may not be suitable for that.

MR. TEDALDI: In this case it's the only spot that's really unusable is in the front, there's an actual pond which is actually surrounded by wetlands, it's wet, the rest of it is just like mucky, well, it's nothing you haven't seen horses driving through.

MR. LUNDSTROM: Again, as I said, that would be one of the questions is that usable or not usable.

MR. KANE: Just do a little homework, obviously we'll do ours. Any further questions at this point?

MS. GANN: Just for the record, how close is the other home that you can see or that can see your home, the

closest part I should ask it that way?

MR. TEDALDI: Closest house is about 500 feet from my house.

MR. KANE: Again, preliminary hearing so that we want to note, just make a notation we'll be ready for the public hearing on it, everything that we decide has to be done in a public hearing, so these are just little things that you'll need to answer at the public hearing.

MR. TEDALDI: I'll find out how much of that area.

MR. KANE: Is considered, yes.

MR. LUNDSTROM: We'd appreciate that.

MR. TEDALDI: Sure, no problem.

MR. LUNDSTROM: One question, Myra, regarding procedure, these notices will be sent out to everyone within how many feet of the boundaries of this property, not of his house?

MS. MASON: Boundary's 500 feet radius.

MR. TEDALDI: Good three or four people, Coleman surrounds me on quite a bit of the property, that's probably 2/3 of my surrounding right there.

MS. LOCEY: I just have a question for the attorney, if and when you decide to grant a variance, can you put a limited number of horses that would be allowed on that parcel?

MR. KRIEGER: Yes, that's a condition that you can place reasonable conditions and that's a condition, yes.

MR. TEDALDI: It strikes me as odd that the zoning went to two to unlimited, seems there's no--

MR. TORPEY: Unlimited is like--

MR. TEDALDI: You're not going to be an idiot and put 500 horses in the back yard but--

MR. KRIEGER: You have to understand the zoning law is not only law that controls and so even though a person may not follow the zoning law by putting too many horses on it they may run afoul of the Ag and Markets law.

MR. KANE: Okay, any further questions? I'll accept a motion.

MS. GANN: I'll make a motion that we set Rick Tedaldi up for a public hearing for his request to permit more than two horses on the property at 15 Wylly's Court.

MR. TORPEY: Second it.

ROLL CALL

MS. GANN	AYE
MR. LUNDSTROM	AYE
MS. LOCEY	AYE
MR. TORPEY	AYE
MR. KANE	AYE

MR. TEDALDI: Should I come here with a specific number in mind as far as the horses?

MR. KANE: Any information that you can bring in will be weighed, let's put it that way, it could be good, it could be negative.

MR. KRIEGER: I suggest you give him the admonition about a use variance.

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MR. TEDALDI: I can already have horses on the property as it is.

MR. KANE: That would be considered a use variance or an area.

MR. KRIEGER: Yeah because now he's talking about as long as there's an unlimited quantity if he limits the quantity then we're in the same situation.

MR. TEDALDI: I'm going to come in with a number then.

MR. KRIEGER: A maximum number, yes.

MS. MASON: Rick, just read that over, tells you what to do next.

PUBLIC_HEARINGS:

KATHLEEN_MC_DONALD_(07-04)

MR. KANE: Request for 62,500 square foot minimum lot area, 8 ft. side yard setback and 70 foot frontage for proposed creation of second lot at 336 Riley Road.

There are many of you that came in after I spoke and on the agenda we're going to move the McDonald hearing in front of the Elks since the majority of people seem to be here for the Elks' meeting so I would call Kathleen McDonald.

Mr. Anthony Coppola appeared before the board for this proposal.

MR. KANE: Once again, since there was some people coming in late, is there anybody here for this particular hearing? Okay, thank you. You're on.

MR. COPPOLA: Thank you, Mr. Chairman. Again, what we're here to do tonight is we're proposing to use a pre-existing, non-conforming lot for Dave and Kathy McDonald, this lot is a lot that's behind their house, their house is on the Riley Road, this lot fronts on Hillingdon Road behind it.

MR. LUNDSTROM: Can I interrupt you? Can you state your name and relationship to the owner?

MR. COPPOLA: My name is Anthony Coppola, I'm the architect who's prepared the drawings. This is Kathleen McDonald, yes.

MR. MC DONALD: And I'm Jan McDonald, Kathleen's husband.

MR. COPPOLA: Sorry about that. So I believe there was probably maybe an error in the legal notice about the creation of this lot, that's definitely not the case,

this lot is a pre-existing lot, it's been in existence for the 24 years that Dave has owned the property and probably in existence long before that. So what we're proposing to do is to improve the lot to basically construct a single family house on this lot and that's going to be accomplished by doing a couple things that we're showing on the drawings, number one, an easement has already been created recently, we have created an easement that allows a new 12 foot driveway that's shown on the drawings on the north side of the existing lot and that driveway will basically be adjacent to the existing driveway. One of the things that we did do from last month is to amend the drawings to create a buffer area between the two driveways. So there's going to be some pavement removed and a five foot strip of grass planted between the existing driveway for the existing house and the proposed driveway that's going to service the new house in the rear. So there's a pre-existing easement there and then as far as the improvement of the rear lot we're going to basically do a 1 1/2 story single-family house approximately 1,700 square feet that will also have a two car garage, an attached two car garage next to it. And what we're asking for I believe is three variances, one is the size of the lot to use the lot again, it's a pre-existing lot, but that lot only has a 1,700, I'm sorry, 17,500 square feet whereas current zoning calls for 80,000 or roughly 2 acre zoning. So there's a variance for that. There's a variance for side yard setback, we're conforming with one side yard of 40 feet but the second side yard we're proposing 32 feet so there's an eight foot variance for the second side yard. And third variance we're asking for is the lot width, it's a pre-existing lot of 100 feet by 175 feet and I believe current zoning calls for lot width of 175 feet so it's a variance of 75 feet. So that's essentially what we're asking for, again, not to create this lot but to use and improve the lot, Dave has paid taxes on this lot as a separate tax parcel for these 24 years and water and sewer are available on Hillingdon

which is an unimproved road. There are water and sewer available there so that we plan on basically hooking up through the paper street effectively and that's essentially it, that's basically the nuts and bolts of what we're proposing to do. I'm going to ask Dave and Kathy to present some other information regarding some letters that they have received.

MR. KANE: Basically, the lot number 2 the one we're proposing to build on is looking like it's going to be the same setup as the existing lot is right now as far as the numbers they look very close?

MR. COPPOLA: In terms, yeah, well, the lots have already been created so the lot sizes are effectively more or less the same size, although the first lot is lot number 1 is slightly bigger but yeah in terms of setbacks you can see that existing house is probably closer I think we have 17 feet.

MR. KANE: Point being even though these numbers may look big it's not going to change the nature of the neighborhood cause it's going to look very similar to the house that's in front.

MR. COPPOLA: That's very true.

MR. KANE: Easement on the proposed driveway from lot number 1 to lot number 2?

MR. COPPOLA: Yes, we have submitted that, it's been so long, it has been created by our surveyor.

MR. KANE: Cutting down any substantial vegetation or trees and the building of the lot number 2?

MRS. MC DONALD: No.

MR. KANE: Will you be creating any water hazards or runoffs?

MR. COPPOLA: No.

MR. KANE: The lot itself fairly level, fairly flat and level being two different things?

MR. MC DONALD: Yes, relatively level.

MR. LUNDSTROM: Mr. Chairman, one question. In your opening remarks you mentioned a slight problem with the legal notice?

MR. COPPOLA: Well, I believe it's stated in there the creation of a second lot.

MR. KANE: Really the second lots are there.

MR. COPPOLA: Proposed creation of a second lot I want to be clear about that we're not creating a lot, it's a separate lot, separate section, block and lot, this lot was created 30 years ago.

MR. LUNDSTROM: Okay, if I may to the attorney, does that pose a problem for us or is that something that we can allow to continue?

MR. KRIEGER: Well, I'm somewhat mystified as to why we're dealing with a legal notice, oh, all right, as long as they ask for in the notice what they're asking for here if it contained additional items that's not a problem then that's not a problem. I do have a question with respect to the frontage, however, when you talk about 70 foot frontage, what frontage are you counting as already partially qualified?

MR. COPPOLA: Well, it's, are you talking about lot 1 or lot 2?

MR. KRIEGER: Lot 2.

MR. COPPOLA: It's a perfect, I mean, it's a perfectly rectangular lot so there's 100 feet of frontage along Hillingdon.

MR. KRIEGER: You said it's an unimproved road, you're not even putting a driveway out to Hillingdon so why should that count as the frontage?

MR. COPPOLA: I'm not even sure that we need a variance for frontage cause it's a pre-existing lot, I'm leaving that, you know, for the board to determine but like I said, it's a perfectly rectangular lot so it's 100 feet in the front, 100 feet in the back, same number either way.

MR. TORPEY: Which way is the house going to face?

MR. KRIEGER: The problem as I say it maybe the same size on both ends but it doesn't appear to front on anything, Hillingdon is not a natural roadway and it certainly doesn't have frontage on Riley so I'm not sure that you're looking at the 70 feet, I think you're looking at like having zero frontage.

MR. KANE: Seems to me we've run into this over in Beaver Dam Lake.

MS. LOCEY: I think we have also on Riley Road before too, not off Hillingdon but off other paper roads.

MR. KRIEGER: Who owns Hillingdon?

MR. COPPOLA: The Town of New Windsor I believe.

MR. TORPEY: It's got water and sewer.

MR. COPPOLA: There are houses on Hillingdon.

MRS. MC DONALD: There's like 7, I think.

MR. MC DONALD: Hillingdon is like a U-shaped road that comes off Riley on both ends so part of it.

MR. KRIEGER: If there are actual houses it's not a paper road.

MR. COPPOLA: It's unimproved.

MR. MC DONALD: It's unimproved at this extension but in farther north where it comes in off of Riley Road you have probably I don't know the exact number maybe 7, 7, 8 units, houses.

MR. COPPOLA: That was one of the things that Mike Babcock had referred us for was there's a certain number of houses that can be on that road and be on that beyond that point you're in violation, I believe.

MR. KRIEGER: If it's a private road but it's not a private road, that's why I asked who owned it.

MR. COPPOLA: Maybe that's his distinction.

MR. KRIEGER: Yeah, there's a limited number on a private road but if this is property owned by the Town it's not a private road.

MR. KANE: Well, I would think based on past experience and the way the building department wrote it up front of the house is here and they're giving 45 foot front yard setback to the garage from this point right here which is still 100 feet, so I would still consider that the front as the front setback cause I believe I'm pretty sure that's what we did in Beaver Dam Lake with a number of lots that were like that before. I think that's the way we should go.

MS. LOCEY: I agree.

MR. KANE: Anybody feel differently as far as that? So

we'll go with that assumption.

MS. LOCEY: Yes.

MR. KRIEGER: Now this easement for the driveway is a permanent easement?

MR. COPPOLA: Yes, it is.

MR. KRIEGER: I mean it's not revokable by anybody?

MR. COPPOLA: No, I think it's been recorded, hasn't it? I'm almost sure it has.

MR. KANE: And the house itself is only a shade over 1,700 square feet so it's not oversized for the neighborhood.

MR. COPPOLA: No.

MR. KANE: It's not changing the nature of the neighborhood and we already stated sewer and Town water so we're not talking about septic.

MR. COPPOLA: That's correct.

MR. LUNDSTROM: One question when you were here for the preliminary one of the questions asked on your plat you're showing the existing driveway heading north to the edge of the property now with the proposed driveway it's actually cutting across, are those two planned to be joined like that or are you planning on breaking them apart?

MR. COPPOLA: No, we submitted revised drawings, I'm not sure if you have that.

MR. LUNDSTROM: We did not get it, this shows--

MR. COPPOLA: Right, yeah, this was, do you see what we

did, that's deleted to address that.

MR. LUNDSTROM: Thank you.

MR. KANE: Is that going to be a paved driveway?

MR. COPPOLA: Yes.

MR. KANE: No problem with the developmental coverage?

MR. COPPOLA: I don't think.

MR. KANE: I think Mike would have caught that.

MR. COPPOLA: Yeah, usually on a single family house you're okay, I mean, provided it's not overkill.

MR. KANE: At this point, I will formally open the public portion of the meeting and ask if there's anybody here for this particular hearing? Seeing as there's not, we'll close the public portion of the hearing and ask Myra how many mailings we had.

MS. MASON: On March 6, I mailed out two addressed envelopes and had no response.

MR. MC DONALD: I do have a couple letters who are adjacent neighbors if I can just--

MR. KANE: I'll read them right into the record.

MR. MC DONALD: That's our neighbor to the north and to the side.

MR. KANE: Anthony Cascoon (phonetic), Jr., 342 Riley Road, New Windsor. Dear Mr. Chairman: I support the ZBA granting approval for the variance of the zoning local law to permit the full request as indicated in the public hearing notice for the creation of a second lot at 336, well, no, it's not creation of a second

lot, so noted. Carlos Gonzalez, 334 Riley Road. Dear Mr. Chairman: I support this ZBA granting approval for the variance of zoning board local law to permit the full requested as indicated in the public hearing notice for creation of a second lot, not really a creation but both noted as being approved by your neighbors. We'll add that to the record. Bring it back to the board for any further questions.

MR. LUNDSTROM: I'll make a motion that the request for the variance from the applicant, Jan McDonald on 336 Riley Road, New Windsor, New York as presented on the agenda and the paperwork we have before us be approved by this board.

MS. LOCEY: I'll second that motion.

ROLL CALL

MS. GANN	AYE
MR. LUNDSTROM	AYE
MS. LOCEY	AYE
MR. TORPEY	AYE
MR. KANE	AYE

PUBLIC HEARINGS:

NEWBURGH LODGE OF ELKS #247 (07-08)

MR. KANE: Request for use variance for Fraternal Club/Organization not permitted in R-5 zone at 286 Temple Hill Road.

Mr. Joseph Minuta appeared before the board for this proposal.

MS. GANN: I might need to recuse myself, I have used Mr. Minuta as an architect for my own personal use recently.

MR. KANE: Does that inhibit you in any way with making a clear decision here or do you feel comfortable making that decision?

MR. KRIEGER: You don't have any financial or other interest in this particular application?

MS. GANN: No, I do not.

MR. KRIEGER: Just happen to know Mr. Minuta, that's all?

MS. GANN: Yes.

MS. LOCEY: I must recuse myself, I'm an adjacent property owner and I'm also president of the Continental Manor 1 Board of Managers.

MR. KANE: I would ask you to step down then for this. Thank you.

(Whereupon, Ms. Locey stepped down from the board for this application.)

MR. KANE: You're okay?

MS. GANN: Yes.

MR. KANE: Thank you for letting us know that. You're on, Joe.

MR. MINUTA: Good evening ladies and gentlemen, my name is Joe Minuta, I'm the architect of record for the project. I'm here to represent Newburgh Elks Lodge number 247 with regard to the application located on Temple Hill Road in the Town of New Windsor. The property's currently being used as a single family residence and apparently they have been trying to sell the property for some time and the Elks Lodge have since sold their own lodge in Newburgh and are looking for a new home. Since the applicant has made an offer to the owner it now becomes a viable solution for the owner to sell his home since they have been trying to do that for I understand to be about a year, should the use be approved, the contract pending would commence and be binding and there would be a sale. Without further ado of that, we have the existing property which is here and this is the existing residence. I have submitted photographs of the existing property that you might want to take a look at. What we're asking for here is a use that's similar to that of an NC zone which is also an adjacent zone to this property which happens to be R-4. What we're looking to do is simply have an understanding that the NC regulations of '89 might be used for this as a fraternal organization since it's in keeping with the type of use and it's adjacency to the zone. We have a phased plan that we're proposing which is to take this existing residence and modify it so we can provide an addition off the back and forecourt in the front which would be a plaza type area with pavers and some steps that would also provide us accessibility for handicapped for both levels. The elk that is the national icon of the Elks Lodge would also be placed in the forecourt at this location. We have provided parking in the first

section of that which we require 23 spaces of which we'd have one handicapped space which would be included, we'd be relocating the existing drive from this location here to approximately 15 to 20 feet north of that, it's very close in proximity. We have ample sight distance in both locations for the existing and the proposed, sight distance to the right is 1,215 feet and to the left is 1,099 feet. With regard to the use, we'd also like to bring to your attention that the building next to the Cantonment actually within the Cantonment that they just placed the Purple Heart Museum was previously used in history as the Masonic Lodge so a lodge within this locale is a precedent. With regard to the Purple Heart Museum, the Elks and the Purple Heart Museum share a heritage if you will as the Elks also have VFW veterans who go to the Elks Lodge, they are in support of Purple Heart recipients and the museum and philanthropic type deeds. The access to the site off of Temple Hill Road to the north we have basically you have the Cantonment and you have other office buildings and industrial type works to the back side, we have the existing condominium complex and to the south we go into Vails Gate. Phase 2 of the project would consist of a pavilion to be located in the rear of the property and it would also have an expansion of parking area and that would not be a paved area rather a geomat if you will that allows grass and green to grow through it. So it would be a greenscape at that location. We have existing power lines that run through the property and nothing can be built under them, actually, the use of the parking area would actually be quite good for its location. There are several items that we need to illustrate a hardship on the property and tonight I have Mr. Dan Bloom of Bloom and Bloom who will be representing those hardship items for the board to understand. Without much else to state on this project, if you have any questions or if the public has any questions, I'd be more than happy to answer them.

MR. KANE: Mr. Bloom?

MR. BLOOM: Thank you. Thank you, Joe. Mr. Chairman, ladies and gentlemen, my name is Dan Bloom of Bloom and Bloom, PC and I'm representing the Elks this evening here on their application. I have Mr. Kirk Williams who's their leader. As Mr. Minuta indicated, I'm going to address the necessary aspects of the application which must be adequately addressed, obviously, if a use variance is going to be granted and I will share with you a little bit of background about the Elks and just to place the application in perspective the Elks go back over 100 years, they are a basic national charter and followed by all the local charters. Their primary goal is the support of veterans throughout the United States in all aspects of their existence. In fact, I'm told by my client that the Elks formed the first veterans' hospital in the United States and I also learned for the first time that the Elks were the impetus or the driving force with the establishment of Flag Day in the United States on a local level. They donate to all the local charities regardless of political or religious affiliations but number one are the veterans. And specifically I'm told by Kirk that they take great pride in the fact that they will have particular days that they will go over to Castle Point, take the veterans out, take them to ball games and what have you, truly charitable on a hands-on local level. With that background now of course now we have to address this particular application and as Joe alluded to before, my client is here this evening because they have signed a contract, the contract to buy this piece of property and the contract is subject to their receiving the necessary use variance this evening. And at the end of the application, I will present it to the board for your records, Mr. Chairman. I'd like to indicate that obviously it's in an R-5 zone but the first question we have to deal with is whether is there any permitted use in the R-5 zone that would work in this particular situation. And very briefly, I'd just

like to scan R-5 by indicating another permitted use would be commercial, agricultural, another would be field and garden crops, Town buildings, recreational facilities, places of worship, one family residence which is what it is at the present time, two-family residence or a multiple family. Now I'm not going to belabor the analysis to the point where we have to go through each one because I think it's apparent there's an existing residence on this property, certainly doesn't lend itself to agricultural, doesn't lend itself certainly to a church. I'm going to respectfully suggest to this board that it lends itself I think quite uniquely to the requested use in this sense. At the present time it is a residence, has been from time in memorial, it's being sold at this time to my clients for \$363,000. How did that price get established? It got established because there was an appraisal on it in May and I will present a copy for the board's reference in May of 2006 which indicated that at that time its value was over \$400,000. So you might say to yourselves well, what happened in the meantime, what happened in the meantime was the property's been listed for over two years for sale and I will present written evidence of that for the board's consideration through Century 21, they have had 15 showings and not a single signed binder or contract except my clients. And the indications from the real estate brokers and from my client is that the reason why they have had no other offers is because number one, the traffic, traffic on 300 has increased substantially over the past several years, the speed limit is 55 miles per hour, and you take that into consideration with the fact that there was a taking by the state on this in the area of this property which as a result the technical boundary of the state highway is seven feet from the front door of this property. Now, obviously, it's maintained from the property line as it exists now to the edge of the pavement, but the fact is that the state can at any time extend it up to that point. So, therefore, automatically, you're not going

to find families with children wanting to buy this house or for that matter even families with pets, for that matter perhaps not even families period. We have a 150 foot wide Central Hudson easement running through the property and at the present time, although it's not used to capacity even a very quick purview of the property will indicate that we have high voltage wires running across the property. And I'm sure everybody will agree with me that the new buzz word anymore is high tension wires, high voltage with electromagnetic fields and the fear that the general public have concerning possible adverse carcinogenic affects of that. So what I'm leading up to is, all right, so my clients come along, they make an offer, in fact, they wanted to offer substantially lower than what they're paying in this contract but what established the price in this contract is the fact that the sellers are selling it for the exact balance of their mortgage. They are walking away with zero and if my clients don't pay this price, they can't buy this property, it will go to foreclosure, they can't clear the title and that's how the actual selling price was established. Now, if the board looks favorably, excuse me, I didn't complete my comments and concerning hardship, I apologize for that. I also have an affidavit here from the homeowners, they now reside in California, their son lives in the house, doesn't pay rent, pays the utilities but he can't, he does act as a caretaker basically but their mortgage payments are just causing them undue financial stress. And in their affidavit, they spell out the fact that their mortgage payments are \$2,466 a month, that's just principal and interest, their taxes are \$6,800 a year so if we add the taxes to the principal and interest, we come up with a payment of about, we come up with a total monthly payment of \$2,966 a month. I asked the real estate broker to give me comparables and a statement as to what would be the fair rental value of the property, they gave me three comparables in New Windsor and the highest of the three is \$1,900 a month. So automatically, my client's

looking or not my client but the seller's looking \$1,000 a month net loss on the property and that doesn't take into consideration repairs, insurance. Now having addressed the hardship aspect of it, obviously, the relevant consideration now is well, if this board looks favorably on the application, what about the impact to the rest of the community. As Joe mentioned before, what he's asking the board to do is basically extend the NC zone a short distance because if we were in the NC zone, we would be able, we wouldn't have to be here this evening seeking a use variance. If the variance is granted, my clients as indicated by Joe on this rendering and by the site plan wish to improve the appearance of the building as it presently sits on the property. They wish to use it for the purposes of their hall. I asked my client well, what are we talking about in terms of its actual use, he said they have two meetings a month, 24 meetings a year. The meetings he tells me last no more than an hour, hour and ten minutes, usually start at 7:30 in the evening. He says at a maximum of once a month they have a fund raiser, of course proceeds of which they use for their charitable purposes and the fund raisers are either on a Saturday morning, might have steak and eggs type thing or sometimes, it will be during the week and he says it's never more than three hours. When I say during the week, probably a Friday or Saturday night. At those fund raisers he said he would anticipate anywhere from 50, 60 maybe 75 people maximum. So yes, no question about it at times there's a fund raiser, there will be cars there but I respectfully suggest to this board that the use that the property will receive from the Elks Club will be substantially less than it's being used right now. Ordinarily, daily traffic of the existing homeowner or the user of the house coming and going at least twice a day perhaps more traffic is a problem in the area. The use of this building would be in off traffic hours, as I say, two, maybe three times a month, property will be well kept. My client tells me under

their national charter, they have very strict regulations as to the appearance of their buildings, how they must be maintained because they have to ensure it through the national chapter and they have underwriters checking this at all times. In conclusion, my client would like to simply have me reiterate what was their track record in the City of Newburgh. Before they left the City of Newburgh, sold their building, they were there for 98 years, never had a complaint, they were good neighbors, they donated to all the charities. My client indicates that to the extent necessary that this board or the planning board deems it appropriate to have limitations on the lighting and they contemplate having the lighting such that it is directed in and not out so that it doesn't spill over the boundary lines of the property, contemplates utilizing screening as necessary and tastefully. Generally, it's their impression that if this variance is granted, what they intend to do to this property will enhance the values of all the properties surrounding it, including the fact another limitation which I forgot before is the property is in a historical overlay district with the Purple Heart Museum where it is and my client says this is something that attracted them to it and will attract other fraternal organizations, other chapters of their fraternal organization of Elks because that's their primary object of existence, the veterans and their pre-existing Masonic Lodge which was tied into the Veteran's Hall, they want to be part of the historical overlay district, they want to contribute to it, they want to be identified with it. So, if you have any other questions, feel free and I respectfully request that the board act favorably.

MR. KANE: I think at this point I'm going to open it up for the public for any statements you have, any questions you might have. I ask you to state your name and address clearly so Fran can hear it and we'll get that down. Please keep your statements non-repetitive

as possible and we'll take it from there. Anybody have any comments they want to make?

MR. LUNDSTROM: Also if I may there's a sign-in sheet circulating, anyone who's here for the public hearing please write your name and address on that again that will be given to the stenographer so she can get it correct. Has everyone had a chance to see that yet?

MR. KENNEDY: Richard Kennedy, I'm from, I live at 276 Temple Hill Road, Unit 106 and I'd like to direct a question to Mr. Bloom, if I may. You said something about the traffic and the traffic on 300 is horrendous now, is there anything in the plan that will kind of mitigate that or alleviate that at some point because it's bad blood.

MR. BLOOM: I think your point is extremely well taken, my clients are very sensitive to that and they fully contemplate making an appropriate presentation to the planning board at which point of course you'll be welcomed to attend for the purpose of addressing that issue. They are going to submit a plan to the board which will identify their peak anticipated peak hours of use and then contemplating that those peak hours of use address the situation as best they possibly can and with the input of anybody would like to be at the planning board and planning board itself for the purpose of minimizing that impact.

MR. KENNEDY: And I do have an ulterior motive, sir, I'm hoping that it will get us a traffic light.

MR. BLOOM: That's beyond my capacity, Mr. Kennedy, but I certainly understand where you're coming from and as a citizen, I appreciate what you're saying.

MS. COYNE: My name is Patricia Coyne, I'm also a resident at 276 Temple Hill Road. I have several concerns, I'd like to know what would the person

capacity be at this lodge for an event say maybe a wedding, not necessarily a formal wedding, but will it be 75 person capacity, is there a 200 person capacity? I'd also like to know will the facility have a fence or gate? We have a lot of children in our community, there are a lot of juvenile issues as far as calling the local police department to come in and check them out they'll be attracted to that facility because now there will be something entertaining and curious for them to check out, also if the members of the lodge tend to be a little bit older getting out on the road is very difficult and I am a mom and it scares the hell out of me to try to get out there. One morning I counted 52 cars going in either direction waiting for an opportunity to pull out, while I was waiting to pull out, somebody from behind me and it's not the first time pulls out in front of me creating another hazard to get out onto the road. Also in that shoulder, that's left and right of 276 Temple Hill Road right beside that property, if there's a car in the shoulder it creates another hazard where you cannot see out onto the road in order to get out to the road whether it be left or right, you also need to be aware of that if you have elders coming and traveling in their car getting in and out of the road. We have not been able to get a traffic light there, it costs about \$50,000 and we don't necessarily have that money in the kitty to put in a traffic light so we can get out. Thank you.

MR. MINUTA: With regard to the occupancy that's based on two factors, based on the factor of parking and based on the square footage of the actual occupiable area of the building which we're currently in design of. If we consider the parking alone we have 23 spaces, there's one space per 300 square feet of usable floor space, 6,800 square feet of floor space for this building including basement. That being said, normally you could on an average we'll look at let's say three people per vehicle so that would bring us to 69 people at that point as an occupant load for one portion of

this and that would also be mandated of course based on fire code and interior occupancy.

MR. KANE: Joe, if I may, could I interrupt? Instead of phase 1, let's go with the maximum that you intend to use so if you're going to have a hall that's rented out for 200 people that answers the question a little bit.

MR. MINUTA: Sure, phase 2 would incorporate total number of parking spaces, we have total of 72 parking spaces provide for phase 2 that would include 2 handicapped spaces going on that same number multiplying that times 3 we're looking at 200 or 216 people.

MR. KANE: Do you have the intention of building a rental hall that will accommodate that amount of people?

MR. MINUTA: It's not a hall, it's a meeting area, there's a pavilion in the back yard which would be approximately 1,400 square feet which is outdoor type of event happening.

MR. KANE: And I will ask another question. Has the Elks held any kind of event that has drawn over 150, 200 people to your old location?

MR. WILLIAMS: We have rarely had anything that big, I think the most tenants I remember at any event has been about 100 people for probably the reason of the neighborhood down there, largest attendance that I remember any event, I've been a member for 34 years has been 100 people, part of this reason I think may have been function of the neighborhood, we don't know for sure but that's the largest that I can remember.

MR. KANE: Thank you. Ma'am?

MS. JAMES: My name is Judith James, I live at 276 Temple Hill Road. Mr. Minuta answered part of my question, I was going to ask what's the maximum parking that you expect in that area because I've lived there for about five years now and just driving up and down 300 it doesn't seem like it's an area that's built to have events, put it that way, it's more a residential, especially that house as it is right now just to think that there would be an event where there would be 100, to 150 people there would be a lot of cars coming in and out of that area, as well as, you know, if the phase 2 hasn't been built yet just my concern is them parking outside on the side road and come into where we actually exit so that's one of my concerns. My other concern, my other question is regarding the meetings, I'm not that familiar with the Elks but is it that they only meet two times a month plus have the one fundraiser then it's not used at any other time or is it used throughout the month for different things?

MR. WILLIAMS: I think we're best described as a part time organization, it's a very accurate description of us and we lately may not have as many events as we had before because we're frankly one in a better financial position than we were before we sold our building downtown.

MS. JAMES: Do you expect it to increase especially with being so close to the Purple Heart Museum also?

MR. WILLIAMS: It's hard to anticipate, we'd hope that we could give the Purple Heart an extra amount of support, we intend to become a major sponsor of the Purple Heart Hall and that's the perfect location.

MS. JAMES: My only other comments is Mr. Bloom also mentioned that there will be fundraisers sometimes on Saturdays at about 7:30 or so running for three hours, that's a busy time during that period in the weekend, people go up and down going up to Lowe's, Home Depot

different area so it's a busy time, as someone else mentioned, the traffic trying to get in and out of where we are now is difficult, having additional people especially if there's going to be an event, the way the wedding takes place on a Saturday or Sunday, it may be quite dangerous at that time also. That's it.

MR. KANE: Thank you. Sir?

MR. POWLES: My name is William Powles, 276 Temple Hill Road. Regards to the Elks, I'm sure it's an admirable organization, however, I don't feel that that location will be suitable for them. I live in the 700 cluster when you enter the property at 276 Temple Hill Road that's the first 12 homes on the lefthand side, the houses there now, when they had pool parties, handfull of people you can hear the music, you can hear the commotion, it's not, it's not peaceful. If you're going to be building out to a pavilion that can handle minimum hundred people I don't see that as being a benefit to the property value, I see it detracting from the property value, you walk outside on your patio you're going to hear whatever event is taking place at that facility or I don't see that as being a benefit for the property value. Addition of parking overflow parking, where are these people going to park? Is there a good chance these people could park on 300, 300 it's pulling out of at 276, people will, Temple Hill Road, it's hazardous, frequently people enter the property, they pull on the shoulder as they enter which is creating a wider road just as what was created for the Purple Heart Museum where 300 was widened, the increase of volume at that address now a pavilion capable of holding 100 people or more overflow parking where are they going to park on the shoulder of 300 parking into our entranceway at 276 Temple Hill Road? Just the facility itself, I'm, I don't feel it would be appropriate for the area, I feel that based on traffic it's a close proximity to the homes there I don't feel it fits well.

MR. KANE: Thank you. Ma'am?

MS. GALLAGHER: Patricia Gallagher, 276 Temple Hill Road. My first question well not a question, my first statement is I'm sorry for the financial situation for the DeForrest family, but I don't see how that becomes our problem. Second, that gentleman stated the noise level from that house just for a family is loud all summer long, I can just imagine what it would be like at 100 people event at a minimum, an outdoor pavilion is just not conducive, it has nothing to do with the Elks themselves or their lodge. I wish them lots of luck and continue their great work but at this particular piece of property I just don't see it conducive to the neighborhood, to our property value, to adding more congestion to an already congested area and I think that's about it.

MR. KANE: Thank you.

MR. WALSH: John Walsh, 276 Temple Hill Road. I have a question for you. How does that increase our property value? More so I have two young children and I think it's going to be a problem throwing parties or weddings or whatever goes on late night.

MR. BLOOM: Well, my thought if I may.

MR. WALSH: My property connects with the property that you have in mind.

MR. BLOOM: May I, Mr. Chairman?

MR. KANE: Yes.

MR. BLOOM: My thought on that was that this property, if my clients don't buy the property and the sellers can't maintain the mortgage payments it's going to go into foreclosure, it's going to be purchased by some

developer or some investor at that foreclosure sale with any number of possibilities. But the more likely possibility from my experience is that developer or that investor is going to use it to rent it out with minimum amount of aesthetics in consideration and just get any tenant at any price. So I just felt and I firmly believe I'd rather than take that kind of chance with that piece of property being situated so visibly as it is to the other properties rather have an entity there that I know is going to take care of the property. That was my thought.

MR. MINUTA: If I may dovetail that?

MR. WALSH: Better than 100 people.

MR. BLOOM: The hundred people are only there once a month maximum.

MR. KANE: We're not going to debate, excuse me, questions but we're not going to debate. Joe?

MR. MINUTA: With regard to the aesthetic value of the property, this is currently in a historic overlay district, part of the charm if you will of this historic overlay district is to provide an architecture that's fitting to that time, that period as a calling card if you will as you drive down Temple Hill Road, Freedom Road for New Windsor, this is not a commercial facility if you will in its style and its aesthetic appeal, there's more of a residential style that we're going to be incorporating. We have a wood fence as many other residences would have, we have a pavilion in the phase 2 portion which may or may not happen, we really don't know, we're fielding that at this time. With regard to noise levels, was that part of the question, noise with regard to the noise levels, Town of New Windsor has a zoning ordinance on noise I believe it's 65 decibels during certain hours and 56 during hours that could be reinforced as with any other

person and the neighbor that you may have there's already been, you're not getting anymore than you've already had, there's already been some people who have questioned the noise and that existing neighbors had noise, they're just like any other neighbor and there's control over those issues as well.

MR. BLOOM: Mr. Chairman, may my client address that issue?

MR. KANE: Sure.

MR. WILLIAMS: I'd like to say at best that we're going to be a part time organization, some people have assumed that we're going to have weddings and things like that, be a catering hall, we're not going to be a catering hall. Yes, we will have some functions there and being a part time organization you think you're going to have less chance of us making a noise issue than theoretically if it goes to a rental property you could have parties there 365 days a year with non-resident owners that you can't control, at least we'll be able to be controllable, if people complain, we comply, you know, we're 98 years in the City of Newburgh and we did not have one single city violation, we'll make accommodations for sound buffering, we're going to put a fence around the property in terms of any child safety issues, we're going to offer up plantings, we're going to make it nice, we're going to do it right.

MR. KANE: Okay, sir?

MR. CHERANSKI: My name is Steve Cheranski, I live at 276 Temple Hill Road. I have lived there 26 years. I'm also a member of the Elks. From what I'm hearing here tonight many people seem to be saying that the Elks are a very admirable organization and they do a lot of good works but we don't want them as a neighbor. Well, I'd like to say that we make good neighbors and

speaking for myself, I've lived there for 20 years, I would enjoy having them and welcome them as neighbors, some of these fundraising things that they're talking about we have what we call a CP dinner during the summer once a month, it's a spaghetti dinner, what we do we charge six bucks for a big bowl a spaghetti, meatballs, salad, cake, coffee for six bucks and all the profits go to cerebral palsy, that's the type of affairs we'll be having.

MR. LEVINE: Joseph Levine, 276 Temple Hill Road. Are they going to rent the place out for weddings or big parties or whatever and even where are the people going to park? Are they going to be parking in our area?

MR. KANE: Again, being a little repetitive on the parking, they've told you how many parking spaces that they're going to have.

MR. LEVINE: They invite 150 people and there's 150 cars, who knows.

MR. KANE: Okay, next? Before I get repeat questions, I'm going to, so please don't raise your hand, if you have something new to say please say it because there's a lot of people here and I'm not going to come back three times to the same person. Ma'am?

MS. NARCISSO: Lauri Narcisso. Same thing if it's anything like the Knights of Columbus, you just don't do the occasional rentals, whatever you do have like the Knights club does have liquor, if I were at your club as a member I get to have alcohol and now that's going to bring traffic issues, that's going to bring a lot of things to our development that we already have issues to deal with alone, we don't need anymore alcohol or devices that bring the neighborhood down in our area.

MS. WRIGHT: My name is Peggy Wright, 276 Temple Hill

Road. I'm concerned about the historical connotation, you're redoing the building, you said there are two new homes next to that property as well, so I don't know, also in terms of 276, the buildings there and how you're going to continue with a fence, I don't know that a fence would also be the most appealing thing to someone who's like these people are having trouble selling their home too I may have difficulty selling mine when I'm ready to leave and that's a grave concern of mine.

MR. KANE: Other questions, comments? No repeats until I get through everybody. Thank you.

MR. ANDREWS: I live on Temple Hill Road right there on--Eugene Andrews and I live on 1519 Continental Manor.

MR. LUNDSTROM: Would you spell your last name?

MR. ANDREWS: A-N-D-R-E-W-S and why can't they market that as a dental or doctor's office? Wouldn't it be more easier, simpler, less traffic and less problems? I don't think you have enough parking there for a big occasion and that in that area there you'd have to put a lot, if you have 100 cars, you have 100 parking spaces, if they don't have room they're going to be parking out on 300 and then you can't see to get out, I mean, it's bad there as it is, so I think that it should be taken into consideration, parking. Thank you very much.

MR. KANE: Thank you, sir.

MS. GALLAGHER: Patricia Gallagher, 276 Temple Hill Road number 205. What's the earliest and latest times that any events will be occurring at this Elks Lodge?

MR. MINUTA: If I may, I believe that would come down to the planning regulations, is that appropriate?

MR. KANE: Basically.

MR. MINUTA: Tonight we're here for a use variance, this is to approve the use for this property. We're not here for the planning aspect of that with regard to all of the various functions that many of you, although they're very good questions that will be addressed during the design, that's not really appropriate for this particular situation, we're here for a use variance only. You will have another opportunity to ask these questions should this be approved tonight at a planning board session because that would also need to be approved, so issues like parking, noise, lights, all of these items can be addressed during the design process of that.

MR. KANE: Basically what happens here so everybody understands the Zoning Board of Appeals basically decides if they can do it, the planning board decides how they do it. So that's not really an issue that we're going to be involved with.

MS. GALLAGHER: Right but don't we get to vote or address our opinions to the board for their approval of this first process or second process or whatever it is?

MR. KANE: Yes.

MS. GALLAGHER: So wouldn't we want to know?

MR. KANE: Not a question that can be answered at this time, they haven't discussed that, there's nothing I can do, I can't force them to give you times at this time it hasn't been discussed with the planning board at all, it's not part of our domain as the zoning board, simplest way I can answer it.

MS. GALLAGHER: So the only thing that's being allowed to be addressed tonight is whether it should be a

commercial property in a residential zone, that's it?

MR. KANE: No, ma'am, you're allowed to ask any questions you want. Our ability to answer those questions may be inhibited.

MS. GALLAGHER: Maybe I misphrased that now I'm, my train went right off it's track. I'm trying to expound on my question, I'm trying get my thoughts out.

MR. KANE: Let me ask a question. What were the hours of operation of the Elks in Newburgh?

MR. WILLIAMS: Again, we're a part time organization, basically evening hours, weekends.

MR. KANE: Latest hours you stay open till?

MR. WILLIAMS: I don't ever remember being down there passed midnight.

MR. KANE: So on the norm you would say approximately midnight?

MR. WILLIAMS: At the latest, yes.

MR. KANE: As far as opening on a Saturday or a Sunday coming in 10 a.m., 7 a.m., noon.

MR. WILLIAMS: Nine o'clock we have steak and eggs breakfast.

MR. KANE: So usually your functions happen sometime between 9 a.m. and midnight on an average?

MR. WILLIAMS: That's accurate.

MR. KANE: Next question?

MS. COYNE: Patricia Coyne, 276 Temple Hill Road. I

think it's more a quality of life issue, I don't think it's directed at me personally, I don't think it's directed at the Elks Lodge specifically, if the zoning changes and the capacity for persons at that address that's so close to Continental Manor 1 and 2 that they're just as much a neighbor as my next door neighbor, we have guidelines, we have to be controlled with the amount of people that we have as guests on our property, especially being loud. If we were to have a party, we cannot have it on the grounds, we have it in a clubhouse so that it can be contained. I don't live next to the Tavarez building, I'm in the way back and it's very quiet, I won't be impacted on the same level but the people immediately to the left, right, behind where 286 is or the people on the right-hand side of it they're going to have the brunt of whatever occasions there are going to be out there. If they tend to be loud into the evening and it is very quiet there so the sound will be amplified. So I think that's what the issue is for them, they'll be our neighbors on the same grass, there really is no separation, a wood fence is not going to separate it, no kidding, it's just a couple steps from whoever's house is the closest to that building, that residence which will ultimately become rezoned, whoever is in there maybe with the exception of a physician's office which will have little traffic and certainly a lot less noise is going to impact Continental Manor 1 and 2 on a daily basis.

MR. KANE: Anybody else wish to speak?

MR. WILLIAMS: I'd like to speak to you. We've heard some people, we've given some good insight, again, I want to say we'd be good neighbors and also notice that there are a lot of people here from New Windsor, residents like myself that probably would like to speak in favor of it and if any of you guys want to speak now is the opportunity.

MR. GILLMERE: Anthony Gillmere, 112 Cedar Avenue, New

Windsor. I captured some of everyone's comments, I just wanted to try and take a stab at this and assure you of a couple things. I appreciate your support of our weddings because you think we're going to have so many people, we have 275 members, due paying members in our lodge today, the likelihood of us having a party in a facility that can't support it yet is very low. As Mr. Minuta pointed out, phase 2 is at this point a pipe dream, we need to get first passed this point first as Mr. Bloom pointed out there are a number of opportunities for you to be involved whether we get phase 2 we're just trying to get a variance to have a home. As it relates to noise, certainly understand your frustration with respect to parking, and correction, the noise that goes by the area what I would submit that a doctor's office on average probably takes 15, 20 patients a day with hours from 7 till 5 and I suspect 20 times 5, 100 people would be a lot more than we would get because as you can see there's probably about 7 members, active members here. Our meetings are generally a struggle to find a quorum of ten people for our meetings so we're not a very vibrant organization anymore. We obviously left a historic building where we had catering facilities which we do not have here and we're not able to properly manage any wedding functions whatsoever. We just didn't have the abilities from a pure manpower standpoint. So we're not going to be having a lot of weddings, I can assure you. As Kirk mentioned, we're a good neighbor, we're here to support and hear what your comments are and try, I tried to capture them. So hopefully we'll get more. The average age of our members without sounding disrespectful is probably somewhere in the neighborhood of 48 years old, our partying days are long passed us so I don't know that we'll have to worry too much about staying up a lot making a lot of noise and in a building which doesn't exist yet. The parking spaces shall be limited as I think Mr. Minuta said and obviously governed by the Town and certainly you have every ability to call the local police department

should we prove to be unsuccessful neighbors for you. Our hours of operation, I wish we had better hours of operation, I've been with the organization for ten years, I was the president for three of those years and our hours of operation vary, we had some card playing folks that came in on Saturday, Saturday mornings from 10 till 1, a number of us watch sports games, football games and as I said we're not a young crowd anymore so we're all home with our kids in bed at pretty decent hours. There's no place to have a wedding, no facilities, the quality of life, I mean, there's really a limited number of people involved, as I said, so I don't want to go over that piece here, low membership and we really are good neighbors, everything we do sports the community. We'd welcome your feedback relative to what fence we might put in if the wooden fence isn't good enough we'll consider putting in another kind of fence. That's why we pay the money for an architect and an attorney so we can understand and properly navigate all the little hurdles so to speak and zoning hurdles and so forth so we really are very good neighbors. And phase 2 is not set in stone, we have to find a home, our numbers are dwindling, our membership is dwindling, we don't have a home, we have been transient for some time. And I would say that you certainly outnumber us at this particular meeting and we're here to at least find a home. So if this is any indication about how many people we expect to have coming to these parties that we don't have yet I'd say look around here and if the Elks here could raise their hand, there's, well, you guys outnumber us, this is the best we can do to come in here and ask for an approval at the zoning board. I don't think you'll find too many more coming for drinks at a place we can't have.

MR. KANE: Yes?

MS. GALLAGHER: Patricia Gallagher, 276 Temple Hill Road, Unit 205. Why is it so important for the Elks to have this particular piece of property? Is there no

other place between Newburgh and here that would accommodate them? I find that hard to believe.

MR. KANE: I think you're asking--do you want to answer that?

MR. WILLIAMS: I can address that very easily. We when we sold our building, our policy was to locate a building without a mortgage and as everybody's probably aware every other piece of property in this eastern Orange County area with the exception of this one probably would have cost us twice as much, frankly, the owner can't sell it because of all the problems that we readily identified. So we found the property, it suited our needs and it suits our mission to serve vets. And I think we're actually going to improve the neighborhood, we're going to offer up a sound barrier, I don't know how people can live there, we would buy it because it's going to be part time. I thank God that I didn't buy a unit back 20 years ago in Continental 1 whether or not we get this problem you're still going to have traffic count of thousands daily and more so when the unbridled development in this Town takes place. So we're actually going to help protect you, we're going to offer up that sound barrier, we're going to offer up the greenery and the shrubs address. The one resident's concern about parking, we have overflow parking, if your unit needs it, you know, we have been good neighbors down on Liberty Street, people needed parking, public groups needed a facility to meet, we have a facility there and we don't charge people for stuff like that and again we're not going to be a catering hall. I don't know, that was brought up, we're going to be a fraternal organization and we're going to be good neighbors. We can prove that with our 98 year track record.

MR. WALSH: John Walsh, 1276 Temple Hill Road. Let me ask you a question. What kind of a sound barrier do you plan on putting because my yard connects right to

the property?

MR. WILLIAMS: I would refer to our architect but my first inclination would probably be an earthen berm or masonry structure or whatever acoustical barrier we thought was good, but would actually help those people in the 700 units, I thought about that, you know, and it's something we can readily do.

MR. WALSH: You're telling me a big wall barrier in my back yard?

MR. WILLIAMS: It's not going to be big, the Town has regulations that we have to comply with, it's going to be whatever is in compliance with the Town regulations.

MR. MINUTA: May I address that subject? With regard to acoustics and sound attenuation, I don't know if you've driven down New Jersey any time, you'll see sound barriers up, okay, the reason for a sound barrier is that trees and vegetation do not block sound, barriers block sound. So with regard to that, that's an extreme case providing a fence provides a sound barrier, there's acoustic limitations and shadowing that we can use from the point of origin to the location of the fence itself, okay, those reverberate back so you have a sound decibel that's reduced by having a sound barrier such as a fence. So to answer that we could address it in any manner that be deemed fit for acoustics but that's basically the purpose of putting up the fence.

MR. POWLES: William Powles, 276 Temple Hill Road. As the gentleman from the Elks stated their membership might not be that high, however, the potential of the property being rented out to another organization for a party the potential is there and bottom line is ladies and gentlemen of the board please do not approve their application.

MR. KANE: Thank you. Any other questions?

MR. BURTON: Robert Burton, Town of Newburgh. I'm a past president of the Elks. The facility that we're trying to move into doesn't really have a catering facility, doesn't have a kitchen that can cook to handle any type of big, big organizational party. We're a simple organization right now, our members are dwindling, I'm one of the, thank God Anthony said younger members, I am an older member, I've been a member for 30 years. I'm also the veteran's chairman for the organization. We need a place to reside and as Kirk stated, this place became available because everything is out of our price range, we can't afford to go anyplace else for our home right now. So we need a place to reside. This home will improve the neighborhood, we'll be good neighbors, we're not bad neighbors. Yes, there are going to be some events that will take place but everybody has events, you people have parties too, I mean, if we happen to have a party we're going to complain but people know you live together, you live in harmony, we're not going to be bad neighbors. We have always been good people. We have taken care of people in the area. Christmas time one of our main thrusts at Christmas we hand out food baskets to the people in the area, New Windsor, we do it in Newburgh, we do it around the area, the veterans we take care of Castle Point and going to be in conjunction with the Purple Heart, we'll work together, yes, you might, you're also going to have gone visitors coming in, we can show them that New Windsor is a place to visit, come and see it, it's a historical district, maybe would we have a chance, give us a chance to prove that we're good neighbors.

MR. CAMPO: Joseph Campo, 276 Temple Hill Road. Really simply it's been said more than once tonight the real difficulty is not our concern about having the Elks as a good or bad neighbor, we assume they're good people, obviously their reputation precedes them but on a daily

basis just coming in and leaving our facility every day, leaving that complex is a problem without having neighbors that might have as much as 100 people at any given time. Right now as it stands we don't have, we have traffic congestion, forget noise, forget good neighbor, bad neighbor, it's very difficult today and the possibility and you said you're going to build as much space for 100 cars, just add that possibility to what we already live with, makes that situation impossible for anybody who lives there to really consider having to live with that and it has nothing to do with us condemning or feeling bad or feeling good about the Elks, it has to do with our lifestyle and our lifestyle right now today is difficult and adding that possibility even if it's two or five years from now just makes the thought of that impossible to think about.

MR. KANE: Anybody else?

MS. GALLAGHER: Patricia Gallagher, 276 Temple Hill Road. Mr. Campo said it has nothing to do with the Elks themselves as a club, as a fraternity, whatever, it has to do with traffic and it has to do with the further plans that are somewhere down the line that we're not allowed to talk about tonight.

MR. KANE: Ma'am, I've got to correct you, nobody said you couldn't talk about it, what we said was we may not have answers for you so please--

MS. GALLAGHER: I apologize.

MR. KANE: Thank you.

MS. GALLAGHER: You know, plan 2, plan 3, maybe they'll build the first floor will be a kitchen, you don't, we need to be assured that what they're saying is true and the biggest problem is the traffic and the noise.

MR. MINUTA: With regard to your assurances of what's being designed, I will assure you there's no large catering hall, there's no large kitchen, it's an ample kitchen for the size of a residence to cook for their own members at that point. As far as quality of life is concerned, a pavilion as a pavilion may have different connotations to different people, what I would like you to consider and what our vision of this pavilion is is in an enlarged gazebo, if you have a gazebo in your back yard, it's a little larger than that to accommodate just the people that will be attending for the Elks. As a matter of fact, it's in the shape of a pentagon and it's 1,400 square feet, which is approximately maybe 30 feet in diameter so that's what we're looking at as far as pavilion is concerned. As far as your parking is concerned, yes, there's traffic, yes, we'd have these issues, there are restrictions with regard to the lot, we're not going to be providing any more or any less than required.

MR. PERRAN: Dave Perran, 276 Temple Hill Road. I apologize for coming late but I had to work tonight. I got a notice postmarked March 16, I checked with my neighbors and I couldn't find any of my neighbors who got the same notice.

MR. KANE: There were 314 mailings sent out to everybody within 500, yeah, 314 mailings sent out.

MR. PERRAN: There are owners in Continental Manor who did not receive the notice, I don't know how many.

MR. KANE: All I can say to you, sir, is that they use the tax records from Town Hall those mailings go out which they pay to get and that's the official list that we use.

MR. PERRAN: I'm just letting you know there are owners at Continental Manor who did not get the notice.

MR. KANE: There's no way for us to tell if everybody in that, if there's a new owner in there and they're not on the tax books yet, they're going to get skipped, there's not much we can do or a renter of a location.

MR. PERRAN: I question the process because for one, even though I did get a notice, I don't know enough about the situation to really make a decision and I don't know what my decision is if I had to say tonight whether I would want the Elks to move into that property I would say not, where do I go from here, do I have to organize people at Continental Manor to come up and speak? Is a decision going to be made tonight?

MR. KANE: Yes.

MR. PERRAN: Well then and I spoke to the association that we at Continental Manor or the management agency, I don't believe they've had enough information and they would do this for us probably to organize some kind of fact finding effort and so that we can be educated as the perspective neighbors as to what kind of decision are we making. I don't think we had enough time and I don't think enough people were notified, otherwise I believe that you would see people representing the Continental Manor 1 and 2 association either, I don't know if anyone's here tonight. I don't see either one of the managers.

MR. KANE: Let me answer as far as the notification, when you think about the buildings that are within 500 feet of the residence we're talking about how many of them are not Continental Manor, we sent out 314 so I'm sure in the high 200s went into the Continental Manor itself, that's the only thing I can answer.

MR. PERRAN: I'm just telling you in the short time I haven't found anyone else who got a notice and if I have, and if I have to vote and you're asking me to give you vote I would say no.

MR. KRIEGER: The process of notification is something that's dictated by law. The applicant is required to get a list from the tax assessor here in the Town of New Windsor, they prepare the list, and it encompasses people 500 feet from the property. Once they prepare the list, it becomes the applicant's job to mail notices to people on the list. They're entitled to rely legally on the list that the Town provides and provided they have complied and given the statutory number of days which is not a great deal, it's ten days then they have complied with what the law requires that they do. If one may disagree with whether or not that's an effective means of giving notice but that's what the law requires and as long as they have complied they have a right to bring their application in front of the ZBA.

MR. PERRAN: How do I go about registering my opposition to the statement?

MR. KANE: Duly noted.

MR. KRIEGER: You're doing it right now.

MR. KANE: That's what the public hearing is for and I have a very good idea of who's kind of against it right now and who's for it.

MS. WRIGHT: Peggy Wright, 276 Temple Hill Road. I'm concerned with the quality of life, this man stated that right now the membership is low but once the move has been made, I would expect that one of the reasons that they're moving is to increase that participation in their membership and that too would impact the traffic that we're concerned about but again as I stated I am overly, overly concerned about my ability just as the owners of the property concerned about selling my unit as well as the difficulty they're having.

MR. KANE: Thank you, ma'am.

MS. NARCISSO: Lauri Narcisso, I just want to say I'm totally against it so it's recognized.

MR. KANE: Anybody that hasn't spoken before?

MS. GALLAGHER: I am totally against it. As this man stated, was there a preliminary hearing?

MR. KANE: Yes, there was.

MS. GALLAGHER: Why weren't we notified?

MR. KANE: Preliminary hearings we don't even know if it's going to go public. Most towns as I explained up front don't do a two meeting system, we have no idea what the applicants are asking us until they actually bring the paperwork before us, that's what the preliminary hearing is for is to get an idea of what they want to do and to make sure that they have pictures, anything else that we may need to help us make a decision and again I would say the majority of towns that I know of and I'm in the pool business, ideal with a lot of building departments and I deal with a lot of zoning boards and we're one of the few that use a two step process. And we did that to actually help the applicants so they don't walk in, hit a stone wall, not have the right things and have to wait six months.

MS. GALLAGHER: Ten days notice for the public hearing is that what you said?

MR. KRIEGER: With respect to, first of all, legally speaking, the Zoning Board of Appeals can only make a decision after a public hearing, that's the purpose of this hearing. Now, the purpose of a preliminary hearing which is the practice here in New Windsor is

not as the chairman indicated the practice in other municipalities is not required by law nor is the zoning board of appeals permitted to do anything other than gather information, they make no decision, they hear no testimony, so there's no requirement for notice for a preliminary hearing, it would be impractical but there's a requirement, a legal requirement for a notice for public hearing which is what's going on right now.

MS. GALLAGHER: Which you stated is ten days?

MR. KRIEGER: Yes.

MR. KANE: Has to be in the newspaper ten days before the hearing.

MS. GALLAGHER: But I don't think that's fair to either side now.

MR. KANE: We can't change the law.

MR. KRIEGER: It's a state law, if you don't think it's fair then you have to refer to the--

MS. GALLAGHER: Doesn't give us ample time to make an educated opinion.

MR. KRIEGER: All state laws you'd have to speak to your lawmakers but this board is bound by that law, same as everybody here is, whether it's a good law or bad law one it's enacted, it's the law and it has to be complied with.

MS. COYNE: Patricia Coyne, 276 Temple Hill Road. In this public hearing you'll make your decision tonight?

MR. KANE: Correct.

MS. COYNE: Will the same people that received notification that list of taxpayers will we also be

notified in that fashion of the decision?

MR. KANE: No, ma'am.

MS. COYNE: The next level then is?

MR. KANE: Planning board.

MS. COYNE: Will we get a similar notification of by mail of that so we may be in attendance because I came from my Continental Manor 2 annual homeowners meeting to be here for this, we had a turnout of about 50 people, considering there are 200 in Continental Manor 2 so it was a higher turnout but those people stayed for that, I left it to come here so there might have been more people who would have been able to come and voice an opinion.

MR. KANE: Okay.

MS. COYNE: Do we get a letter indicating when the planning board meeting is?

MR. KANE: Honestly don't know if they're required to do mailings or if it's in the paper.

MR. KRIEGER: There's a notice requirement that applies to the planning board but not the same as what applies to the Zoning Board of Appeals and it's not within the control of this board, what they do as far as their notification is concerned all I can tell you is there's a notification requirement, it's not the same.

MS. COYNE: So for planning board are the general public allowed to attend?

MR. KANE: I believe adjoining property owners will get notices.

MS. COYNE: Thank you.

MR. KANE: Anybody can attend but adjoining property owners will get notices.

MR. KRIEGER: But it's the same deal, they also have to publish in the paper.

MR. KANE: Right and it's still in the paper for the planning board, The Sentinal.

MR. SAEED: Azhar Saeed, 276 Temple Hill Road. How are you going to make the decision today or tonight?

MR. KANE: Yes.

MR. SAEED: That's what I heard, this is a primary area and I didn't know this decision was going to be made because my next door neighbor, I'm the one south of this thing and we're, I'm about 50 yard away from this, I have two kids and I'm very, very concerned and I just found out about this today.

MR. KANE: Thank you. Anybody else?

MR. CAUDY: Robert Caudy, 276 Temple Hill Road. It's a maniac getting out of there and the traffic is getting worse every day. If you get out there on a, when the evening, when cars are coming home from work any time almost it's getting built up so bad you can't get out of there, you can't, it's a maniac trying to get out of there, it's the worst thing I ever saw. Somebody else is gonna get killed there. Already one killed, why won't the state help? Why won't they put a light? They're going to have to do something.

MR. KANE: A little out of our jurisdiction.

MR. CAUDY: I mean it's terrible, you don't realize it.

MR. KANE: I do, I drive it every day, sir.

MR. CAUDY: You take your life in your hands, they come down off the hill before you get out of the driveway they push you down the road, you ain't got a chance, they don't let up, they keep right on you.

MR. KANE: Thank you, sir. Anybody else?

MR. LUNDSTROM: Mr. Chairman in the public meeting can I ask the general public that are here they're talking about the Elks with possibly 100 parking spaces how many cars are currently in Continental Manor, how many parking spaces are currently available in Continental Manor?

MS. COYNE: Depending on the number of bedrooms you have, I'm sorry, do you need my name again? Patricia Coyne 1276 Temple Hill Road, depending on the number of bedrooms you have in your unit determines your number of spaces. I have two spaces, we also pay for a third spot, my number spot is in the 300s and I'm in a 2100 building, there's at least 500 parking spaces and we're constantly complaining about the fact that there isn't even enough spaces to park, there's very limited visitor parking available to the owners there as it is.

MR. KANE: Thank you. Sir?

MR. KENNEDY: Richard Kennedy, 276 Temple Hill Road. That pertains exclusively Continental Manor 2, we do not have that, we have one parking space per unit, we have some extras on the hill and inevitably they're completely full, that's Continental Manor 1.

MR. KANE: Thank you.

MR. LUNDSTROM: One further question, if I may, predominantly this evening we've heard from people that are against the proposition. Is there anyone here who's for the proposition? Can we hear from them if

they wish to speak?

MR. KANE: For the people that are here tonight let me get a hand raise for the member that would be for this and how many against? The people that are raising their hands that are against it, is there anybody here that's not from Continental Manor? Thank you, sir, okay.

MR. MINUTA: Mr. Chairman, may I just state for the record?

MR. KANE: Let me make sure there's no other questions. One more?

MR. ALIVIGNI: Giuseppe Alivigni. The people that raised their hands in the front, they don't live in Continental Manor 1 or 2 or one of them.

MR. KANE: I understand, sir, believe me, I understand. Any other questions from the public? At this point, we'll close the public portion of the meeting and bring it back to the board and I will ask Myra how many mailings we had.

MS. MASON: On March 16, I mailed out 314 addressed envelopes, I had a couple of phone calls, couple of people came in and looked at the plans, there was no official comments, no responses.

MR. MINUTA: A correction for the record, somewhere along this conversation we grew from 23 to 72 to 100 spaces, the total buildout on this for phase 2 portion of this would be 72 spaces, not 100, there's a big difference between the two, I just wanted to make that clear.

MR. KANE: Thank you. And also just let us know phase 2 is a dream.

MR. MINUTA: Phase 2 is a dream.

MR. KANE: So initially you're talking about 23 parking spaces?

MR. MINUTA: That's correct

MR. KANE: Okay.

MR. KRIEGER: Okay, Mr. Bloom, would you address yourself to the self-created hardship aspect?

MR. BLOOM: I will, thank you, sir. As I indicated before and I'd like to expound upon it, my clients are here this evening because they sold this property in the City of Newburgh and they're trying to find a place to live, so to speak, and you heard my client already indicate that they can't afford to buy property in this market anywhere else, it's the only piece of property they found that they could afford and they can only afford it because of the hardship that the present owners are experiencing. Was that hardship self-created? I respectfully suggest to this board it was not, they have owned it since evidence will indicate they have owned it since 1998. Obviously purchased it to live there as a residence but with costs going up, taxes going up, whatever their personal financial situation being what it is and they can't make their mortgage payments, an affidavit I have that from them \$2,500 a month in mortgage payments another \$6,800 a year in taxes, add insurance, add repairs to that, they just can't afford it. Result is they're either selling it to my clients or it's going to foreclosure at a public sale. My client's are paying at least \$45,000 more than they wanted to only because unless they do pay that amount these people can't clear their mortgage. So it was not a self-created hardship. And I'd also like to conclude respectfully suggest to this board that I have been very impressed and I'm sure you have by the quality and the extent of the comments

from the public this evening and there's no question we're all residents in New Windsor, we know it's a tough area for traffic. I only suggest to this board that what my clients intend to do is to help alleviate the situation. And I understand suspicions on the part of the public, if I was out there, I'd have the same suspicions. Well, you say this tonight, how do we know what you're going to do in the future. I'd just throw out to the board, the board is already aware of that, if the board is inclined to act favorably on this application, I ask that to the extent that the board deems it appropriate that they qualify whatever their decision, if it be favorable to my clients with stipulations and conditions that this board deems appropriate.

MR. KANE: Thank you.

MR. KRIEGER: I have one other question. It's the applicant's position that this is subject to planning board review if a variance is granted tonight?

MR. BLOOM: Yes, it is and by the way, I'm going to submit a copy of the contract as well as the affidavits and everything I have alluded to so far.

MR. KRIEGER: Okay, but you have an application in front of the planning board now, it's held in abeyance, is that correct, pending this?

MR. MINUTA: Application for the planning board at this moment we're still in the process of this, we'll make an application to the planning board should this be approved.

MR. BLOOM: I was not involved in that part of it, Mr. Chairman.

MR. KRIEGER: He has answered that, that's fine.

MR. LUNDSTROM: A question if I may. Let me direct the question to Mr. Minuta. I know there have been other situations that come before this board where the planning board has heard things and not had a public hearing, is this something you would encourage the planning board to hold a public hearing on it if this board would vote favorably on that?

MR. MINUTA: That's up to the planning board to make that decision, I really cannot answer that, public hearings are generally a good idea.

MR. LUNDSTROM: So what you're saying is the planning board could decide not to hold a public hearing or they could decide to hold a public hearing on it?

MR. MINUTA: I believe that's up to the planning board, I cannot make that decision.

MR. KANE: It's up to discretion as far as I know, although that's something that if we decide can we make that stipulation that some kind of notification go out to the people in Continental Manor.

MR. KRIEGER: You can't bind the planning board, you can't make a condition binding the planning board as to their discretion or not. The most you can do is make a condition that the applicant will not oppose a public hearing should the planning board decide to do that because in my experience, it's traditional what they ask it's among one of the first questions and if the applicant doesn't oppose it they're far more likely to want to hold a public hearing.

MR. KANE: Any further questions from the board?

MS. GANN: Mr. Chairman, just want to make sure I'm clear as to what we're voting on this evening. Are we voting on plan number one which is the new addition with the basement and the 23 parking spaces, is that

what we're voting on?

MR. KANE: No, we're voting on a use change, strictly a use change that they're allowed to use that particular piece of property against what the zoning of that area is so it's a use change of that particular property.

MR. KRIEGER: But you're allowed in terms of putting conditions to condition for instance that there be, that it be no more extensive than as presented before this board so that there would be a cap on it so to speak. I assume that's their intention, they wouldn't have gone to all of this effort if they intended to do something else.

MR. MINUTA: May I answer with regard to the, what we presented here tonight? We have done so to be forthcoming and provide information not only about phase 1 but phase 2 as the dream of this, it doesn't, that's really an offering to the board and the public to show their intentions, okay, unjaded as they are. We're here tonight for a use variance only, these are samples of what we'd like to do with the property and that's why we bring them before you but the real intent is just for a use to be able to use this property as a fraternal organization.

MR. KRIEGER: Let me clarify my earlier comment when I said that you can place a condition, a cap, you can't get into the legally speaking you can't do the Planning Board's job for it. You can't tell them you have X number of spaces and the fence has to be here and the fence has to be there and what the lighting has to be, that's all up to them. And presumably unless this is radically different than any other application that I have seen and I have seen a few, there will be some changes between now and the time they receive final approval from the planning board if in fact that happens. And you can't place a condition on them that that wouldn't allow them to make those changes to it,

condition has to be phrased in broader terms so not to, in other words, they couldn't come in and ask for like 300 parking places if they started now with?

MR. MINUTA: Seventy-two.

MR. KRIEGER: It's conceivable that it would go from 72 to 75 or 72 to 100 or 72 to 50, who knows but you can't pin them down specifically that way but if the intention is not to give them carte blanche so they can make any, once the flood gates are open, they can make any kind of application they want to, it would be three times the size of what they're presenting here, when I refer to putting a cap, I refer to it in general in those general terms, not specific things.

MR. LUNDSTROM: One technical question on the bottom left quarter panel on your display it shows a wetlands as flagged on the bottom right corner, it looks like that's going to be between and this is the future phase between the two parking lots, is that correct?

MR. MINUTA: That's correct.

MR. LUNDSTROM: How do you plan on mitigating that wetland area so you don't--

MR. MINUTA: Mitigation would obviously go before DEC, if DEC doesn't have jurisdiction it will go before the Army Corps of Engineers. The plan is to provide a culvert pipe underneath that to allow that area to go, there's provisions within the DEC's regulations that allow to fill trenches and ditches. So those items would be forthcoming based on design that we would do and that would be through a wetland engineer who would be designing that.

MS. GANN: In regards to the high voltage wires, where is that running across the property?

MR. MINUTA: The high voltage wires run across the property in this location here, if you take a look at 1S1, your existing survey reference you see dashed lines that represents the overhead wires.

MS. GANN: Does that cross over into the parking lots or is that--

MR. MINUTA: That's over the parking areas, yes, clearly we wouldn't be able to use that for anything else than parking, can't put any structures within that easement.

MR. KANE: Any further questions from the board? I'll accept a motion.

MR. LUNDSTROM: It's my understanding that all motions must be made in the affirmative?

MR. KANE: That's correct.

MR. LUNDSTROM: With that in mind, I will move that this application be approved.

MR. TORPEY: Second it.

ROLL CALL

MS. GANN	NO
MR. LUNDSTROM	AYE
MS. LOCEY	ABSTAIN
MR. TORPEY	NO
MR. KANE	AYE

MR. KANE: Application fails 2 to 2. If nothing else, can I get a motion to adjourn?

MR. TORPEY: So moved.

MR. LUNDSTROM: Second it.

March 26, 2007

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ROLL CALL

MS. GANN	AYE
MR. LUNDSTROM	AYE
MS. LOCEY	AYE
MR. TORPEY	AYE
MR. KANE	AYE

Respectfully Submitted By:

Frances Roth
Stenographer